

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23958 of 2002

Between:

Ch. R.V.V. Swamy Naidu, S/o. Venkateswara Rao Naidu,
K.G.R.L.College, Bhimavaram.

..... PETITIONER

AND

- 1 The Commissioner-Director of Collegiate Education,
Nampally, Hyderabad, Andhra Pradesh.
- 2 The Government of Andhra Pradesh, Rep. by its Secretary,
Finance & Planning Dept., Secretariat, Hyderabad.
- 3 K.G.R.L.Degree College, rep. by its Secretary and Correspondent,
Bhimavaram, W.G. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue order or orders or direction or Writ of Mandamus declaring the action of the 1st respondent passed orders in Rc.No.760/Admn.III-I/2001, dated 11.4.2002 in rejecting the claim of the petitioner to admit his post into grant-in-aid with effect from the date of Judgment High Court in W.P.No.11531/1983 dated 17.7.1985 as illegal and arbitrary and consequentially direct the respondents to admit the petitioner's post into grant-in-aid with effect from 17.7.1985 and fix pay accordingly and release all arrears of salaries and other benefits forthwith.

Counsel for the Petitioner: MR.M.L.ALI

Counsel for the Respondent Nos. 1 and 2.: GP FOR EDUCATION

Counsel for the Respondent No.3: Mr. Y.Rama Tirtha/D.Ramalinga swamy

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the 1st respondent in passing the order, dated 11.4.2002 in R.C.No.760/Admn.III-I/2001 rejecting the claim of the petitioner to admit his post into grant-in-aid with effect from the date of the judgment of this Court in W.P.No.11531 of 1983, dated 17.7.1985 as illegal and arbitrary.

The brief facts that are necessary for the purpose of disposal of the writ petition may be stated as follows:

The petitioner is working as Physical Director in the 3rd respondent's College. Initially, he was appointed on 8.9.1978 as Physical Director in K.G.R.L. Junior College. Subsequently, in 1981, he obtained Post-Graduation in Master of Arts. In 1983, when the 3rd respondent invited applications for filling up the post of Physical Director in Degree College, he applied for it, but the 3rd respondent erroneously selected unqualified person namely S.S.Bhagwan on 20.11.1983 and the same was ratified by the Governing Body on 4.12.1983. Questioning the selection, he filed W.P.No.11531 of 1983, which was allowed on 17.7.1985. Aggrieved by the same, the 3rd respondent preferred W.A.No.787 of 1985 which was dismissed. However, the 3rd respondent issued posting orders on 29.12.1992, but the petitioner was not appointed with retrospective effect from 4.12.1983. The Government issued a Memo No.1179/CEI-2/89, dated 11.7.1991

assigning U.G.C. scales prospectively i.e. from the date of issuance of the order, dated 11.7.1991 and his pay was fixed at Rs.11,791/-. The 1st respondent issued proceedings on 11.4.2002 rejecting the petitioner's claim for his admission into grant-in-aid with retrospective effect is not feasible of compliance and there is no need to revise the orders issued in earlier proceedings. The juniors of the petitioners are drawing more pay scales than him. Hence, this writ petition.

The learned counsel for the petitioner has vehemently contended that since the selection of the unqualified person was set aside by this Court, the petitioner ought to have been selected by the 3rd respondent as Physical Director in the Degree college at least with effect from the date of dismissal of the appeal preferred by the 3rd respondent. There are clear laches on the part of the 3rd respondent in not taking any steps in selecting the petitioner as Physical Director in the Degree College after the selection of S.S.Bhagwan was quashed. Therefore, he prays to give promotion to the petitioner with retrospective effect from the date of selection or at any rate, with retrospective effect from the date of dismissal of the appeal preferred by the 3rd respondent.

The learned Government Pleader for Education has opposed the same on the ground that the case of the petitioner has already been considered about a decade back and therefore, the question of reviewing the orders does not arise.

Initially, the petitioner was appointed as Physical Director in K.G.R.L. Junior College by way of selection in 1978. He obtained Master Degree in 1981. The 3rd respondent-college notified the post of Physical Director in the Degree College in 1983. In the selection process, one S.S.Bhagwan was selected as Physical Director in the Degree college and that selection was questioned by the petitioner in W.P.No.11531 of 1983 which was allowed on 17.7.1985 declaring the selection of the said person as null and void with a consequential direction to the 3rd respondent to consider the petitioner's case for the

post of Physical director in the Degree College. Aggrieved by the order passed by the learned single Judge, the 3rd respondent preferred an appeal in W.A.No.787 of 1985 and the same was dismissed on 16.9.1985. Therefore, the petitioner was not admittedly appointed as Physical Director in the Degree College. On being represented by him, the 3rd respondent-management issued posting orders on 29.12.1992 and he joined in the promoted post on 16.2.1993. The grievance of the petitioner is that since the 3rd respondent-college has not considered the petitioner's case in pursuance of the directions of the learned single Judge, he cannot be made to suffer. There are some latches on the part of the 3rd respondent in filling up the post of Physical Director in the Degree College after the selection of S.S.Bhagwan was declared as null and void. Thereafter, no proceedings have been filed to show that the petitioner was selected as Physical Director in the Degree College by the duly constituted Selection Committee. However, it is stated that the 3rd respondent-college promoted the petitioner on 16.2.1993. The Government, vide its Memo, dated 11.7.1991 assigned U.G.C. pay scales prospectively from the date of issue of these orders. Questioning the same, the petitioner made several representations, but no action has been taken. The proceedings, dated 11.7.1991 issued by the Government have become final inasmuch as no challenge has been made. On the representation of the petitioner, the Government passed impugned proceedings, dated 11.4.2002 whereunder the Government rejected the request of the petitioner for his admission to grant-in-aid with retrospective effect which is not feasible of compliance as the Government felt that there is no need to revise the orders already issued a decade ago. Since the order dated 11.7.1991 is not under challenge, the petitioner is not entitled to pay fixation with effect from 17.7.1985. No proceedings have been filed by the petitioner to show that he was selected by the duly constituted Selection Committee prior to 1991. Since the petitioner was given promotion as Physical Director in the Degree College with effect from 11.7.1991, the Government rightly granted the petitioner U.G.C. pay

scales with effect from 11.7.1991. So, the order under challenge does not suffer from any incurable legal infirmities so as to call for interference by this Court.

The writ petition is devoid of merit and it is accordingly dismissed. However, all the remedies available to the petitioner under law are left open. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

21st June, 2005

bcj

To

1 The Commissioner-Director of Collegiate Education,
Nampally, Hyderabad, Andhra Pradesh.

2 The Secretary, Finance & Planning Dept., Secretariat,

The Government of Andhra Pradesh, Hyderabad.

3 The Secretary and Correspondent, K.G.R.L.Degree College,
Bhimavaram, W.G. District.

4 Two C.Cs. to the Government Pleader for Education, High Court Buildings,
Hyderabad (OUT)

5 Two C.D. copies